

# *United States District Court*

for

*District of Guam*

## **Report on Offender Under Supervision**

Name of Offender: **Joseph G. Tuncap**

Case Number: **CR 98-00307-001**

Name of Sentencing Judicial: **John S. Unpingco**

Date of Original Sentence: **May 21, 1999**

Original Offense: **Bank Fraud, in violation of Title 18 United States Code, Sections 1344 and 2.**

Original Sentence: 125 months imprisonment followed by a 60 month term of supervised release with conditions to include: pay restitution in the amount of \$117,983.98; perform 400 hours of community service; participate in a drug treatment program approved by the U.S. Probation Office for treatment of narcotic addiction or drug or alcohol dependency which will include testing for the detection of substance abuse; obtain and maintain gainful employment; and pay a \$600 special assessment fee. **On November 8, 2006, conditions were modified** to include refrain from the unlawful use of a controlled substance and submit to one drug test within 15 days of release from imprisonment and at least two drug tests thereafter, not to exceed eight drug tests per month, as directed by the probation officer. **On March 30, 2007, an Informational Violation Report** was filed with the Court for noncompliant behavior.

Type of Supervision: Supervised Release Date Supervision Commenced: October 27, 2006

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### **NONCOMPLIANCE SUMMARY**

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1.	Failure to refrain from committing another federal, state or local crime, in violation of 18 U.S.C. §3583(d).
2.	Failure to refrain from any unlawful use of a controlled substance, in violation of 18 U.S.C. §3583(d).

***Please see attached Informational Report, Re: Violations of Supervised Release Conditions  
submitted by U.S. Probation Officer Grace D. Flores.***



/s/ CARMEN D. O'MALLAN  
U.S. Probation Officer Specialist  
Supervision Unit Leader

Date: August 24, 2007



/s/ GRACE D. FLORES  
U.S. Probation Officer

Date: August 24, 2007

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**THE COURT ORDERS**

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*No Response is necessary unless the court directs that additional action be taken as follows:*

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Submit a Request for Modifying the Condition of Term of Supervision.

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Submit a Request for Warrant or Summons.

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Other: Condition suspended as recommended.

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF GUAM**

UNITED STATES OF AMERICA,	)	CRIMINAL CASE NO. 98-00307-001
	)	
Plaintiff,	)	
	)	
vs.	)	<b>INFORMATIONAL REPORT</b>
	)	
JOSEPH G. TUNCAP,	)	
	)	
Defendant.	)	
_____	)	

**Re:   Violations of Supervised Release Conditions**

I, U.S. Probation Officer Grace D. Flores, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of supervised release for Joseph G. Tuncap, and in that capacity declare as follows:

On May 21, 1999, Joseph G. Tuncap was sentenced to 125 month term of imprisonment and a 60 month term of supervised release for the offense of Bank Fraud, in violation of 18 U.S.C. §§ 1344 and 2. His term of supervised release began on October 27, 2006. Mr. Tuncap is alleged to have committed the following violations of 18 U.S.C. §3583(d):

**Violation #1 Mandatory Condition:** *The defendant shall not commit another federal, state, or local crime.*

On July 5, 2007, Joseph G. Tuncap was arrested for the offense of Theft of Property. Guam Police Department Police Report number 07-17747 and Superior Court of Guam Criminal Case CF0321-07 outlined the offense as follows:

On June 22, 2007, Guam Police Department (GPD) Officer B. Santos took a complaint from Allen W. Sizemore regarding a break in at Micronesian Marine boat shop's storage room located in Hagatna. Mr. Sizemore stated that the evening prior,

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### Violations of Supervised Release Conditions

Re: TUNCAP, Joseph G.

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the store room had been secured with a padlock and blocked in by a forklift. Micronesian Marine are the suppliers for Guam Waterworks Authority and water meters were secured in the store room. Stolen from the storage room were 67 pieces of bronze water meters.

GPD Officers provided the various recycling center information of the items that were stolen along with photographic samples which included the writings on the brass housings. On June 29, 2007, GPD Criminal Investigations Section received a call from FSM Recycling that they had four of the units which appeared to be the same as those stolen except that they were missing face covers and meters. FSM Recycling identified the seller, through his Guam Driver's License, as Joseph Gumataotao Tuncap. Mr. Tuncap was seen operating a 1993 Toyota pickup with license plate number 5335 FSO. He was paid \$87.00 for the brass he recycled.

On July 5, 2007, GPD Officers interviewed the owner of the pickup, who identified Joseph Tuncap as his uncle, and informed GPD that Joseph Tuncap has been using his vehicle. On that same date, Joseph Tuncap was contacted by GPD Criminal Investigation Section and was requested to report to their section for questioning. He reported, was advised of his rights and declined to waive them.

On that date, Mr. Tuncap was arrested for Theft of Property (as a Second Degree Felony) and was booked and confined. On July 6, 2007, Mr. Tuncap appeared before the Honorable Anita A. Sukola and was released on a \$5,000 personal recognizance bond with pretrial release conditions to include daily reporting to the Superior Court of Guam. On July 24, 2007, an Indictment was handed down in the Superior Court of Guam which charged Mr. Tuncap with Damaging Government Utility Equipment (As a 2<sup>nd</sup> Degree Felony), Stealing Government Utility Equipment (As a 2<sup>nd</sup> Degree Felony), Receiving Stolen Government Utility Equipment (As a 2<sup>nd</sup> Degree Felony) and Theft of Property (As a 2<sup>nd</sup> Degree Felony).

On July 10, 2007, Mr. Tuncap reported to the U.S. Probation Office and reported of his arrest. He explained that he found the items in Asan while he was fishing and was unaware that they were stolen. Mr. Tuncap stated he recycled the items and received \$87 for them.

**Violation #2 Standard Condition:** *The defendant shall refrain from any unlawful use of a controlled substance.*

On August 8, 2007, Mr. Tuncap tested presumptively positive for the use of methamphetamine. He signed the admission of drug use form indicating that he used "meth" on August 7, 2007. As a result of the positive drug test, Mr. Tuncap was returned to phase one day one of the testing and treatment program.

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**Supervision compliance:** Mr. Tuncap paid the \$600 special assessment fee on March 14, 2007. He is actively seeking employment and performs community service at a rate of eight hours weekly. Mr. Tuncap is currently under medical evaluation and as per his doctor's orders his employment is restricted. Therefore, his employment opportunities are limited. He supports himself through disability benefits received from the Veterans Administration.

**Recommendation:** This report is for informational purposes only, and it is respectfully recommended that no action be taken. Criminal trial setting is scheduled for August 24, 2007. Once further information about the arrest becomes available, the Court will be informed.

Executed this 24<sup>th</sup> day of August 2007, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Respectfully submitted,

ROSSANNA VILLAGOMEZ-AGUON  
Acting Chief U.S. Probation Officer

By:



/s/ GRACE D. FLORES  
U.S. Probation Officer

Reviewed by:



/s/ CARMEN D. O'MALLAN  
U.S. Probation Officer Specialist  
Supervision Unit Leader

cc: Karon Johnson, AUSA  
Federal Public Defender  
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